

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting
Investigation on the Commission's Own Motion,
Notice of Opportunity for To Be Heard, and
Order to Show Cause Regarding the Operations
and Practices of Arnold Ray Baeza, an Individual
Doing Business as Best Movers.

Investigation 04-02-008
(Filed February 11, 2004)

**SCOPING MEMO AND RULING OF ASSIGNED
COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

Summary

This ruling and scoping memo (Scoping Memo) confirm rulings made at the prehearing conference (PHC) in this investigation, held on Thursday, April 22, 2004, in Los Angeles, California, and sets forth the schedule, the issues, and the procedural requirements for respondent Arnold Ray Baeza, an individual doing business as Best Movers (Baeza) to defend himself against the allegations set forth in the Order Instituting Investigation, Notice of Opportunity to Be Heard, and Order to Show Cause (OII/OSC).

At the PHC, Baeza was advised that the Commission considers this OII/OSC a very serious matter. For example, the Commission will address, among other things, whether Baeza should have his permit permanently revoked in this proceeding and be fined a substantial penalty (see ordering Paragraph 3 of the OII/OSC).

Baeza did not have an attorney present at the PHC. However, on April 23, 2004, the undersigned Administrative Law Judge (ALJ) received a letter

advising the Commission that Baeza has retained James Victor Kosnett of the firm of Kosnett & Durchfort to represent him. Mr. Kosnett has therefore been added to the service list.

Baeza and his counsel may obtain general information on Commission proceedings by contacting the Commission's Public Advisor at 1-866-849-8391 (telephone) or at public.advisor.la@cpuc.ca.gov (e-mail).

Prompt Appearance At Hearings

Baeza was about 45 minutes late for the April 22 PHC and offered no explanation for his tardiness. Baeza is advised that future hearings will commence promptly at the time indicated on the schedule set forth below, and the Commission will not delay the proceedings to wait for Baeza's appearance if he is late.

Schedule

At the PHC, the following schedule was discussed.¹

Ordering Paragraph 5 of the OII/OSC requires Baeza to submit a written report to the assigned ALJ with a copy to William G. Waldorf, the Commission's Consumer Protection and Safety Division (CPSD) Supervisor, containing the information listed in that paragraph within 30 days of the date of the order. Because Baeza was served with the OII/OSC on March 30, 2004, the ALJ ruled at

¹ To the extent any dates in this ruling differ from those stated in the transcript, the dates in this ruling govern.

the PHC that Baeza may submit the referenced report no later than April 29, 2004 (30 days after Baeza was served with the OII/OSC).²

At the PHC, Baeza was also advised that if he fails to serve³ the written testimony on May 21, 2004, as set forth in the schedule below, he will be deemed to have waived the opportunity to present his affirmative case at the hearing.

If either Baeza or CPSD have witnesses whose direct testimony will be limited to 10 minutes or less in length, they may list those witnesses and a brief but full summary at the end of the written testimony. In order for this testimony to be admitted, these witnesses will have to be present to testify at the evidentiary hearings. Alternatively, CPSD and Baeza may offer the testimony of consumers in a written declaration, and the parties can determine at the next PHC whether or not these witnesses need to be available at the hearing for cross examination.

CPSD and Baeza shall also list their witnesses at the end of the written proposed testimony.

The following schedule is adopted.

Date	Event
Thursday, April 29, 2004	Baeza shall submit the written report as required by Ordering Paragraph 5 of the OII/OSC at page 6.

² The ALJ advised Baeza at the PHC that he would receive this scoping memo after April 29, 2004, so that he should take careful note at the PHC of his obligation to file the required report no later than April 29.

³ "Serve" in this case means mailing a copy of the proposed written testimony to each person on the service list which is attached to this ruling as Appendix A. CPSD and Baeza must each retain the original and two copies of the testimony that they sponsor and bring it to the hearing.

Date	Event
Friday, May 7, 2004	CPSD shall serve supplemental testimony.
Friday, May 21, 2004	Baeza shall serve testimony addressing the allegations and evidence advanced by CPSD in the OII/OSC and accompanying declaration and supplemental report and attachments, as well as any supplemental testimony CPSD may serve on May 7.
Friday, June 4, 2004	CPSD shall serve reply testimony.
Wednesday, June 16, 2004 commencing at 11:00 a.m.	Telephonic PHC. In order to attend the PHC, the parties shall call in to the following toll free number: 1-877-418-5002, pass code 487101.
Wednesday, June 23, 2004 commencing at 11:00 a.m.	Evidentiary hearings at the Commission's Courtroom, California Public Utilities Commission, 320 West 4 th Street, Los Angeles, CA.
Wednesday, July 14, 2004	Parties file and serve opening briefs.
Monday, July 26, 2004	Parties file and serve reply briefs.
Friday, September 24, 2004	Presiding Officer's Decision Due.

Our goal is to resolve this case as soon as possible and we anticipate that the resolution will not exceed 12 months from the date of filing the investigation, pursuant to Pub. Util. Code § 1701.2(d).⁴

⁴ Section 1701.2(d) states that adjudication cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline.

Scope of the Proceeding

The OII/OSC and accompanying Declaration and Supplemental Report of CPSD and attachments set forth the detailed allegations against Baeza. The scope of the proceeding is framed by the OII/OSC and accompanying Declaration and Supplemental Report of CPSD and attachments.

Category of Proceeding

The OII/OSC categorizes this proceeding as adjudicatory and states that hearings are necessary.

Presiding Officer

Pursuant to Rule 6(c), Assigned Commissioner Brown designates ALJ Econome as the presiding officer.

Service List

The service list for this proceeding is attached to this Scoping Memo as Appendix A. Parties are required to serve all pleadings, testimony, etc. on the Appearances and State Service categories, and may, but are not required, to serve such documents on the Information Only list. Persons designated as Information Only do not have status to appeal a Commission decision.

Communications With Decisionmakers (Ex Parte Communication)

Pursuant to Pub. Util. Code § 1701.2(b), ex parte communications are prohibited in this proceeding. For example, a party or any other person who has a financial interest in this proceeding is prohibited from speaking with a decision maker on a substantive issue in this case. (See Pub. Util. Code §§ 1701.1, 1701.2 and Rules 5 and 7 of the Commission's Rules of Practice and Procedure for specific rules on ex parte communications.)

IT IS RULED that:

1. The schedule and issues to be addressed are set forth in this Scoping Memo, unless subsequently modified by Assigned Commissioner or Assigned Administrative Law Judge (ALJ) directive.

2. Baeza is advised that future Commission hearings will commence promptly at the time indicated on the schedule below, and the Commission will not delay the proceedings to wait for Baeza's appearance if he is late.

3. If respondent Baeza fails to serve testimony before or at the time designated in the schedule set forth above, he will have waived the right to present an affirmative case at the evidentiary hearings.

4. If either Baeza or CPSD have witnesses whose direct testimony will be limited to 10 minutes or less in length, they may list those witnesses and a brief but full summary at the end of the written testimony. In order for this testimony to be admitted, these witnesses will have to be present to testify at the evidentiary hearings. Alternatively, CPSD and Baeza may offer the testimony of consumers in a written declaration, and the parties can determine at the June 16 PHC whether or not these witnesses need to be available at the hearing for cross examination. CPSD and Baeza shall also list their witnesses at the end of the written proposed testimony.

5. ALJ Econome is the presiding officer in this proceeding.

6. The service list for this proceeding is attached as Appendix A.

7. Pursuant to Pub. Util. Code § 1701.2(b), ex parte communications are prohibited.

Dated May 3, 2004, at San Francisco, California.

/s/ GEOFFREY F. BROWN

/s/ JANET A. ECONOME

Geoffrey F. Brown
Assigned Commissioner

Janet A. Econome
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Ruling and Scoping Memo of Assigned Commissioner and Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated May 3, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.